

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

VANESSA HUGHES,)	4:04CV3368
)	
Plaintiff,)	
vs.)	MEMORANDUM
)	AND ORDER
FURNITURE ON CONSIGNMENT,)	
INC., d/b/a Rod Kush's Furniture/)	
Mattressland,)	
)	
Defendant.)	

This matter is before the court on Magistrate Judge Piester's recommendation (filing 8) that this action be dismissed for Plaintiff's failure to comply with the court's orders and failure to prosecute the action with diligence, as to which Plaintiff has filed an objection (filing 9), as allowed by 28 U.S.C. § 636(b)(1), Fed. R. Civ. P. 72(b), and NECivR 72.3. The recommendation was issued after the parties failed to respond to the Magistrate Judge's earlier order that directed the parties to file an overdue Rule 26(f) report or to show cause why sanctions should not be imposed.

After the recommendation was issued, the parties filed a Rule 26(f) report (filing 11), and, in response thereto, Judge Piester entered a case progression order, including, among other things, a directive that the parties serve their Rule 26(a)(1) disclosures by April 18, 2005 (filing 12). In effect, therefore, the recommendation for dismissal has been withdrawn by Judge Piester. Accordingly,

IT IS ORDERED that the Magistrate Judge's recommendation (filing 8) is deemed withdrawn, and Plaintiff's objection thereto (filing 9) is mooted.

DATED: May 2, 2005.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge